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| 10/699,339 | 11/03/2003 | Stephen J. Seely | OCI 728 | 2510 |

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| EXAMINER |
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VANTERPOOL, LESTER L

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| ART UNIT | PAPER NUMBER |
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3727

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|---|-------------------------------------|--|
| Office Action Summary | Application No. 10/699,339 | Applicant(s) SEELY ET AL. | |
| | Examiner Lester L. Vanterpool | Art Unit 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on March 16, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☐ Claim(s) 1 and 4-7 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>November 3, 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dusen et al., (U.S. Patent Number 5469998) in view of Heyworth (U.S. Patent Number 6089431).

Van Dusen et al., discloses a male hitch coupler (See Figure 6), wherein the male hitch may be extended into and secured to the receiver hitch (See Figures 1 & 6).

Van Dusen et al., shows the pole (14) (See Figure 1) attached extending upwardly from the mount having the front and backside (See Figures 1 & 6), and the break therein (See Figure 6). The pole (14) consists of the first portion (19) and the second portion (14) wherein the first portion (19) abuts the mounting (See Figure 6); the hinge (See Figure 6) hingedly couples the first (19) and second (14) portion, which is positioned on the front side of the pole (14) (See Figure 1);

the rod (98) to removably receive the tire (16) being attached to and extended outwardly away from the front side of the pole wherein the rod (98) is positioned on the

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second portion of the pole with threads (102) (See Figure 10). Threaded locking members selectively positioned on rod (column 6, line 39) (See Figure 10).

However, Van Dusen et al., does not disclose the mounting including the male hitch coupler and the female hitch coupler being fixedly attached together and being substantially aligned with each other, wherein the male hitch coupler may be extended into and secured to the receiver hitch such that the female hitch coupler extends away from the receiver hitch.

Heyworth teaches the mounting (68) (See Figure 1) including the male hitch coupler (80) (See Figure 1) and the female hitch coupler (See Figures 2 – 7) fixedly attached together and being substantially aligned with each other, wherein the male hitch coupler (80) may be extended into and secured (38a) (See Figure 1) to the receiver hitch (See Figure 2) such that the female hitch coupler extends away from the receiver hitch (column 4, lines 1 – 5) for the purpose of providing additional hauling multi-functional capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the male hitch coupler and the female hitch coupler fixedly attached together and being substantially aligned with each other, wherein the male hitch coupler may be extended into and secured to the receiver hitch such that the female hitch coupler extends away from the receiver as taught by Heyworth with the spare tire holding assembly of Van Dusen et al., in order to enhance hauling flexibility and multi-functional capabilities.

the threaded locking (18 & 102) locking member selectively positionable on the rod (98).

Regarding claim 5, Van Dusen et al., discloses a plate (96) having the aperture (104) (See Figure 10) extending therethrough to removably receive the rod (98) and centrally disposed on the plate (column 6, line 58). See also Figure 10.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dusen et al., (U.S. Patent Number 5469998) and Heyworth (U.S. Patent Number 6089431) as applied to claim 1 above, and further in view of Krengel (U.S. Patent Number 2772826). Van Dusen et al., and Heyworth disclose the invention substantially as claimed.

However, Van Dusen et al., and Heyworth do not disclose the support attached to the front side of the pole and extending away therefrom, the support positioned on the second portion and generally adjacent to the break.

Krengel teaches the support (39) being attached to the front side of the pole (24) and extending away therefrom (See Figures 2 & 4) for the purpose of deducing material stress on the pole to increase durability.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the support being attached to the front side of the pole and extending away therefrom as taught by Krengel with the spare tire holding assembly of Van Dusen et al., in order to enhance structural integrity.

However, Van Dusen et al., Heyworth and Krengel do not disclose the support positioned on the second portion and generally adjacent to the break.

It would have been obvious matter of design choice to position the support on the second portion and generally adjacent to the break, since applicant has not disclosed that the support positioned on the second portion and generally adjacent to the break solves any stated problem or is for any particular purpose and it appears that the invention would perform equal well with the support positioned on the whole pole with one portion and with no break.

4. Claims 6 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dusen et al., (U.S. Patent Number 5469998) and Heyworth (U.S. Patent Number 6089431) as applied to claim 5 above, and further in view of Miller (U.S. Patent Number 5850959). Van Dusen et al., and Heyworth disclose the invention substantially as claimed except for a rigid panel being attached to the backside of the pole.

However, Van Dusen et al., and Heyworth do not disclose the rigid panel being attached to the backside of the pole.

Miller teaches the rigid panel (42) being attached to the backside of the pole (38 & 46) (See Figures 2B & 2C) for the purpose ensuring durability and reliability.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rigid panel attached to the backside of the pole as taught by Miller with the spare tire holding assembly of Van Dusen et al., in order to enhance and improve the strength and durability of the pole.

Regarding claim 7 as stated above, Miller discloses the rigid panel (42) being attached to the backside of the pole (38 & 46) (See Figures 2B & 2C) for the purpose of ensuring durability and reliability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rigid panel attached to the backside of the pole as taught by Miller with the spare tire holding assembly of Van Dusen et al., in order to enhance and improve the strength and durability of the pole.

Allowable Subject Matter

5. Claims 2 & 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 8 is allowed.

Response to Amendment

A telephone interview with applicant representative, Mr. Sean A. Kaufhold was conducted on May 25, 2006 to discuss a potential examiner's amendment to claim 1.

However, after careful examination, new matter has been identified based on the newly submitted drawings filed on March 16, 2006.

7. The amendment filed March 16, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

Claim 1, line 6 recites: "fixedly attached together and being substantially aligned with each other,". The specification does not disclose fixedly attached together and being substantially aligned with each other in the original specification.

Secondly, the drawings filed on March 16, 2006 disclose an adjustable pole on the second portion. See Figure 1. The original specification does not disclose an adjustable pole on the second portion.

Thirdly, the drawings filed on March 16, 2006 disclose the reference number #46 as the wing nut threaded locking member. The original specification does not disclose the reference term wing nut.

Response to Arguments

8. Applicant's arguments and examiner's amendment with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments

made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02.

The "disclosure" includes the claims, the specification and the drawings.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JES F. PASCUA
PRIMARY EXAMINER

LLV
May 23, 2006